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SENATE BILL 931

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Shannon Robinson

AN ACT

**RELATING TO PUBLIC EDUCATION; COMPLYING WITH THE FEDERAL NO
CHILD LEFT BEHIND ACT OF 2001; ENACTING THE ASSESSMENT AND
ACCOUNTABILITY ACT; CREATING AN ASSESSMENT AND ACCOUNTABILITY
SYSTEM BASED ON CHALLENGING ACADEMIC CONTENT AND PERFORMANCE
STANDARDS AND RIGOROUS TESTING AGAINST THOSE STANDARDS TO
DETERMINE ANNUAL YEARLY PROGRESS OF STUDENTS, PUBLIC SCHOOLS
AND SCHOOL DISTRICTS; PROVIDING FOR SANCTIONS AND REWARDS;
PROVIDING FOR ADDITIONAL RESOURCES FOR SCHOOLS THAT FAIL TO
MAKE ADEQUATE YEARLY PROGRESS; PROVIDING FOR IMPROVEMENT
INDICATORS IN ADDITION TO THE ASSESSMENT AND ACCOUNTABILITY
SYSTEM; CREATING FUNDS; PROVIDING FOR PARENTAL NOTIFICATION;
PROVIDING FOR QUALITY TEACHERS; MAKING AN APPROPRIATION.**

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 22-1-4 NMSA 1978 (being Laws 1975,

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1 Chapter 338, Section 1, as amended by Laws 2001, Chapter 239,
2 Section 1 and by Laws 2001, Chapter 244, Section 1) is amended
3 to read:

4 "22-1-4. FREE PUBLIC SCHOOLS--EXCEPTIONS--WITHDRAWING AND
5 ENROLLING--OPEN ENROLLMENT.--

6 A. Except as provided by Section 24-5-2 NMSA 1978,
7 a free public school education shall be available to any
8 school-age person who is a resident of this state and has not
9 received a high school diploma or its equivalent.

10 B. A free public school education in those courses
11 already offered to persons pursuant to the provisions of
12 Subsection A of this section shall be available to any person
13 who is a resident of this state and has received a high school
14 diploma or its equivalent if there is available space in such
15 courses.

16 C. Any person entitled to a free public school
17 education pursuant to the provisions of this section may enroll
18 or re-enroll in a public school at any time and, unless
19 required to attend school pursuant to the Compulsory School
20 Attendance Law, may withdraw from a public school at any time.

21 D. In adopting and promulgating rules concerning
22 the enrollment of students transferring from a home school or
23 private school to the public schools, the local school board
24 shall provide that the grade level at which the transferring
25 student is placed is appropriate to the age of the student or

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1 to the student's score on a student achievement test
2 administered according to the statewide [~~and local school~~
3 ~~district testing programs as determined by the state~~
4 ~~superintendent or both~~] assessment and accountability system.

5 E. A local school board shall adopt and promulgate
6 rules governing enrollment and re-enrollment at public schools
7 other than charter schools within the school district. These
8 rules shall include:

9 (1) definition of the school district boundary
10 and the boundaries of attendance areas for each public school;

11 (2) for each public school, definition of the
12 boundaries of areas outside the school district boundary or
13 within the school district but outside the public school's
14 attendance area and within a distance of the public school that
15 would not be served by a school bus route as determined
16 pursuant to Section 22-16-4 NMSA 1978 if enrolled, which areas
17 shall be designated as "walk zones";

18 (3) priorities for enrollment of students as
19 follows:

20 (a) first, [~~persons~~] students residing
21 within the school district and within the attendance area of a
22 public school;

23 (b) second, [~~persons~~] students enrolled
24 in a school ranked as a school that needs improvement or a
25 school subject to corrective action;

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(c) third, students who previously
attended the public school; and
~~[(c)—third]~~ (d) fourth, all other
applicants;
(4) establishment of ~~maximum~~ allowable class
size if smaller than that permitted by law; and
(5) rules pertaining to grounds for denial of
enrollment or re-enrollment at schools within the school
district and the school district's hearing and appeals process
for such a denial. Grounds for denial of enrollment or
re-enrollment shall be limited to:
(a) a student's expulsion from any
school district or private school in this state or any other
state during the preceding twelve months; or
(b) a student's behavior in another
school district or private school in this state or any other
state during the preceding twelve months that is detrimental to
the welfare or safety of other students or school ~~[personnel]~~
employees.
F. In adopting and promulgating rules governing
enrollment and re-enrollment at public schools other than
charter schools within the district, a local school board may
establish additional enrollment preferences for rules admitting
students in accordance with the ~~[second and]~~ third and fourth
priorities of enrollment set forth in Subparagraphs ~~[(b) and]~~

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1 (c) and (d) of Paragraph (3) of Subsection E of this section.

2 The additional enrollment preferences may include:

- 3 (1) after-school child care for students;
- 4 (2) child care for siblings of students
- 5 attending the public school;
- 6 (3) children of employees employed at the
- 7 public school;
- 8 (4) extreme hardship;
- 9 (5) location of a student's previous school;
- 10 (6) siblings of students already attending the
- 11 public school; and
- 12 (7) student safety.

13 G. As long as the maximum allowable class size

14 established by law or by rule of a local school board,

15 whichever is lower, is not met or exceeded in a public school

16 by enrollment of [~~first-priority~~] first- and second-priority

17 persons, the public school shall enroll other persons applying

18 in the priorities stated in the school district rules adopted

19 pursuant to Subsections E and F of this section. If the

20 maximum would be exceeded by enrollment of an applicant in the

21 second [~~or-third~~] through fourth priority, the public school

22 shall establish a waiting list. As classroom space becomes

23 available, persons highest on the waiting list within the

24 highest priority on the list shall be notified and given the

25 opportunity to enroll. "

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1 Section 2. A new section of the Public School Code,
2 Section 22-2A-1 NMSA 1978, is enacted to read:

3 "22-2A-1. [NEW MATERIAL] SHORT TITLE. -- Chapter 22,
4 Article 2A NMSA 1978 may be cited as the "Assessment and
5 Accountability Act". "

6 Section 3. A new section of the Public School Code,
7 Section 22-2A-2 NMSA 1978, is enacted to read:

8 "22-2A-2. [NEW MATERIAL] FINDINGS AND PURPOSE. --The
9 purpose of the Assessment and Accountability Act is to comply
10 with federal accountability requirements; to provide the means
11 whereby parents, students, public schools and the public can
12 assess the progress of students in learning and schools in
13 teaching required academic content; and to institute a system
14 in which public schools, school districts and the department of
15 education are held accountable for ensuring student success. "

16 Section 4. A new section of the Public School Code,
17 Section 22-2A-3 NMSA 1978, is enacted to read:

18 "22-2A-3. [NEW MATERIAL] ACADEMIC CONTENT AND PERFORMANCE
19 STANDARDS--STATE BOARD POWERS AND DUTIES. --

20 A. The state board shall adopt academic content and
21 performance standards for grades one through twelve in the
22 following areas:

- 23 (1) mathematics;
24 (2) reading and language arts;
25 (3) science; and

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(4) social studies.

B. The state board may adopt content and performance standards in other subject areas.

C. Academic content and performance standards shall be sufficiently academically challenging to meet or exceed federal requirements.

D. The department of education shall measure the performance of every public school in New Mexico. Public schools achieving the greatest improvement in adequate yearly progress shall be eligible for supplemental incentive funding. The state board shall establish the corrective actions and interventions necessary for public schools that do not achieve adequate yearly progress. "

Section 5. A new section of the Public School Code, Section 22-2A-4 NMSA 1978, is enacted to read:

"22-2A-4. [NEW MATERIAL] STATEWIDE ASSESSMENT AND ACCOUNTABILITY SYSTEM - INDICATORS - - REQUIRED TESTS - - ALTERNATIVE TESTS - - LIMITS ON ALTERNATIVES TO ENGLISH LANGUAGE READING TEST. - -

A. The state board shall establish a statewide assessment and accountability system that is aligned with the state academic content and performance standards and that measures adequate yearly progress for each student, public school and school district. Adequate yearly progress shall be determined primarily by student academic achievement, as

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1 demonstrated by statewide standards-based academic performance
2 tests; however, the state board may include other indicators of
3 adequate yearly progress, including graduation rates for high
4 schools and attendance for elementary and middle schools.

5 B. The academic assessment program for adequate
6 yearly progress shall test student achievement as follows by
7 the school year indicated:

8 (1) for grades kindergarten through two,
9 diagnostic and standards-based tests on reading that include
10 phonemic awareness, phonics and comprehension by the 2003-2004
11 school year;

12 (2) for grades three through nine and for
13 grade eleven, standards-based academic performance tests in
14 mathematics, reading and language arts and social studies by
15 the 2005-2006 school year; provided that testing in ninth grade
16 and testing in social studies shall not occur until the
17 legislature has provided funding for test development and
18 implementation;

19 (3) for grades four, six, eight and eleven,
20 standards-based academic performance writing tests by the 2005-
21 2006 school year; and

22 (4) for one of grades three through five and
23 six through nine and for grade eleven, standards-based academic
24 performance tests in science by the 2007-2008 school year.

25 C. The department of education shall involve

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1 appropriate certified school employees in the development of
2 the standards-based tests.

3 D. All students shall participate in the academic
4 assessment program. The state board shall develop standards
5 for reasonable accommodations in academic testing for students
6 with disabilities and limited English proficiency, including
7 when and how accommodations may be applied. The legislative
8 education study committee shall review the standards prior to
9 adoption by the state board.

10 E. Students who have been determined to be limited
11 English proficient may be allowed to take the standards-based
12 academic performance test in their primary language. A student
13 who has attended school for three consecutive years in the
14 United States shall participate in the English language reading
15 test unless granted a waiver by the department of education
16 based on criteria established by the state board. An English
17 language reading test waiver may be granted only for a maximum
18 of two additional years and only on a case-by-case basis. "

19 Section 6. A new section of the Public School Code,
20 Section 22-2A-5 NMSA 1978, is enacted to read:

21 "22-2A-5. [NEW MATERIAL] STUDENT ACHIEVEMENT RATINGS--
22 CALCULATION OF ADEQUATE YEARLY PROGRESS. --The state board shall
23 adopt the process and methodology for calculating adequate
24 yearly progress. The statewide standards-based tests used to
25 assess adequate yearly progress shall be valid and reliable and

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1 shall conform with nationally recognized professional and
2 technical standards. Academic performance shall be measured by
3 school and by the following subgroups:

- 4 A. ethnicity;
- 5 B. race;
- 6 C. limited English proficiency;
- 7 D. students with disabilities; and
- 8 E. poverty. "

9 Section 7. Section 22-2-8.6 NMSA 1978 (being Laws 1986,
10 Chapter 33, Section 7, as amended) is recompiled as Section
11 22-2A-6 NMSA 1978 and is amended to read:

12 "22-2A-6. [~~EDUCATIONAL CONTENT STANDARDS~~] REMEDIATION
13 PROGRAMS--PROMOTION POLICIES--RESTRICTIONS. --

14 A. [~~The state board shall identify educational~~
15 ~~content standards as measured by the state assessment program~~
16 ~~and establish performance levels of proficiency.~~] Remediation
17 programs, academic improvement programs and promotion policies
18 shall be aligned with [~~content standards and based on the~~
19 ~~following:~~

20 (1) ~~statewide assessment results;~~

21 (2) alternative school-district-determined
22 assessment results and

23 [(3) ~~student performance in school~~]

24 requirements of the assessment and accountability program

25 B. Local school boards shall approve school

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1 district-developed remediation programs and academic
2 improvement programs to provide special instructional
3 assistance to students in grades one through eight who fail to
4 attain [~~a level of proficiency established by the content~~
5 ~~standards~~] adequate yearly progress. The cost of remediation
6 programs and academic improvement programs shall be borne by
7 the school district. Remediation programs and academic
8 improvement programs shall be incorporated into the school
9 district's educational plan for student success and filed with
10 the department of education.

11 C. The cost of summer and extended day remediation
12 programs and academic improvement programs offered in grades
13 nine through twelve shall be borne by the parent or guardian;
14 however, where parents are determined to be indigent according
15 to guidelines established by the state board, the [~~local~~]
16 school [~~board~~] district shall bear those costs.

17 D. Diagnosis of weaknesses identified by [~~the~~
18 ~~reading or writing performance assessment instrument~~
19 ~~administered pursuant to Section 22-2-8.5 NMSA 1978~~] a
20 student's academic achievement may serve as criteria in
21 assessing the need for remedial programs or retention.

22 E. A parent or guardian shall be notified no later
23 than the end of the second grading period that his child is
24 failing to [~~attain appropriate grade level proficiency in~~
25 ~~content standards~~] make adequate yearly progress, and a

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1 conference consisting of the parent or guardian and the teacher
2 shall be held to discuss possible remediation programs
3 available to assist the student in attaining ~~[the required~~
4 ~~level of proficiency established by the content standards]~~
5 adequate yearly progress. Specific academic deficiencies and
6 remediation strategies shall be explained to the student's
7 parent or guardian and a written plan developed containing
8 timelines, academic expectations and the measurements to be
9 used to verify that a student has overcome his academic
10 deficiencies. Remediation programs and academic improvement
11 programs include tutoring, extended day or week programs,
12 summer programs and other research-based models for student
13 improvement.

14 F. At the end of grades one through seven, three
15 options are available, dependent on a student's attainment of
16 the required level of proficiency established by the content
17 standards:

18 (1) the student has ~~[attained the level of~~
19 ~~proficiency required by the content standards]~~ made adequate
20 yearly progress and shall enter the next higher grade;

21 (2) the student has not ~~[attained the required~~
22 ~~level of proficiency]~~ made adequate yearly progress and shall
23 participate in the required level of remediation. Upon
24 certification by the school district that the student has
25 ~~[successfully overcome his areas of deficiency]~~ made adequate

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1 yearly progress, he shall enter the next higher grade; or

2 (3) the student has not [~~attained the level of~~
3 ~~proficiency required by the content standards~~] made adequate
4 yearly progress upon completion of the prescribed remediation
5 program and upon the recommendation of the [~~certified school~~
6 ~~instructor~~] teacher and school principal shall either be:

7 (a) retained in the same grade for no
8 more than one school year with an academic improvement plan
9 developed by the student assistance team in order to [~~attain~~
10 ~~proficiency of content standards~~] meet adequate yearly
11 progress, at which time the student shall enter the next higher
12 grade; or

13 (b) promoted to the next grade if the
14 parent or guardian refuses to allow his child to be retained
15 pursuant to Subparagraph (a) of this paragraph. In this case,
16 the parent or guardian shall sign a waiver indicating his
17 desire that the student be promoted to the next higher grade
18 with an academic improvement plan designed to address specific
19 academic deficiencies. The academic improvement plan shall be
20 developed by the student assistance team outlining timelines
21 and monitoring activities to ensure progress toward overcoming
22 those academic deficiencies. Students failing to [~~attain~~
23 ~~proficiency of content standards~~] make adequate yearly progress
24 at the end of that year shall then be retained in the same
25 grade for no more than one year in order to have additional

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1 time to master the required content standards.

2 G. At the end of the eighth grade, a student who
3 fails to [~~attain proficiency of content standards~~] make
4 adequate yearly progress shall be retained in the eighth grade
5 for no more than one school year [~~in order~~] to attain
6 proficiency of content standards or if the student assistance
7 team determines that retention of the student in the eighth
8 grade will not assist the student [~~attain the appropriate level~~
9 ~~of academic achievement and proficiency of standards~~] make
10 adequate yearly progress, the team shall design a high school
11 graduation plan to meet the student's needs for entry into the
12 work force or a post-secondary educational institution. If a
13 student is retained in the eighth grade, the student assistance
14 team shall develop a specific academic improvement plan that
15 clearly delineates the student's academic deficiencies and
16 prescribes a specific remediation plan to address those
17 academic deficiencies.

18 H. A student who fails to [~~attain proficiency of~~
19 ~~content standards~~] make adequate yearly progress for two
20 successive school years shall be referred to the student
21 assistance team for placement in an alternative program
22 designed by the school district. Alternative program plans
23 shall be filed with the department of education.

24 I. Promotion and retention decisions affecting a
25 student enrolled in special education shall be made in

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1 accordance with the provisions of the individual educational
2 plan established for that student.

3 J. For the purposes of this section:

4 (1) "academic improvement plan" means a
5 written document developed by the student assistance team that
6 describes the specific content standards required for a certain
7 grade level that a student has not achieved and that prescribes
8 specific remediation programs such as summer school, extended
9 day or week school and tutoring;

10 (2) "alternative school-district-determined
11 assessment results" means the results obtained from student
12 assessments developed by a local school board and conducted at
13 an elementary grade level or middle school level;

14 (3) "educational plan for student success"
15 means a student-centered tool developed to define the role of
16 the academic improvement plan within the school district that
17 addresses methods to improve a student's learning and success
18 in school and that identifies specific measures of a student's
19 progress;

20 (4) "statewide assessment results" means the
21 results obtained from the New Mexico achievement assessment
22 that is administered annually to grades three through nine
23 pursuant to state board rule; and

24 (5) "student assistance team" means a group
25 consisting of a student's:

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- 1 (a) teacher;
- 2 (b) school counselor;
- 3 (c) school administrator; and
- 4 (d) parent or legal guardian. "

5 Section 8. A new section of the Public School Code,
6 Section 22-2A-7 NMSA 1978, is enacted to read:

7 "22-2A-7. [NEW MATERIAL] ADEQUATE YEARLY PROGRESS--SCHOOL
8 IMPROVEMENT PLANS--CORRECTIVE ACTION. --

9 A. A public school that fails to make adequate
10 yearly progress shall submit an improvement plan to the local
11 school board. The school district shall double the number of
12 certified school personnel for that school in the next school
13 year.

14 B. A public school that fails to make adequate
15 yearly progress for two consecutive school years shall be
16 ranked as a school that needs improvement.

17 C. Within ninety days of being notified that a
18 public school within the school district has been ranked as a
19 public school that needs improvement, the school district shall
20 submit an improvement plan for that public school to the
21 department of education. In developing the improvement plan,
22 the local superintendent, the president of the local school
23 board and the school principal of the public school that needs
24 improvement shall hold a public meeting to inform parents and
25 the public of the public school's rank. The meeting shall be

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1 used to elicit suggestions from parents and the public on how
2 to improve the public school. After the public meeting, the
3 school district shall develop the public school's improvement
4 plan, and the local school board shall approve the improvement
5 plan before it is submitted to the department of education.
6 The improvement plan shall be approved by the department of
7 education within thirty days of its submission.

8 D. The improvement plan shall include:

9 (1) documentation of performance measures in
10 which the public school failed to make adequate yearly
11 progress;

12 (2) measurable objectives to indicate the
13 action that will be taken to address failed measures;

14 (3) benchmarks to be used to indicate progress
15 in meeting standards;

16 (4) an estimate of the time and the resources
17 needed to achieve each objective in the improvement plan;

18 (5) the support services that shall be
19 provided to students and application for federal and state
20 funds; and

21 (6) any other information the public school
22 that needs improvement, the local superintendent, the local
23 school board or the department of education deems necessary.

24 E. A public school that needs improvement may apply
25 to the department of education for financial or other

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1 assistance in accordance with the improvement plan. The public
2 school shall make application for assistance substantially in
3 the form required by the department of education. The
4 department of education shall evaluate applications for
5 assistance and may recommend changes to an application or to an
6 improvement plan if warranted by the final application. The
7 department of education shall consider innovative methods to
8 assist the public school in meeting its improvement plan,
9 including department of education or other school employees to
10 serve as a mobile assistance team to provide administrative,
11 classroom, human resource and other assistance to the public
12 school that needs improvement as needed and as provided in
13 applications approved by the department of education.

14 F. If a public school fails to make adequate yearly
15 progress for two or more consecutive school years, it shall
16 provide transportation or pay the cost of transportation,
17 within available funds, for students who choose to enroll in a
18 higher ranked public school.

19 G. If a public school fails to make adequate yearly
20 progress for three or more consecutive school years, it shall
21 provide supplemental services, including after-school programs,
22 tutoring and summer services, within available funds.

23 H. The state board shall adopt rules that govern
24 the priority for students for whom supplemental services shall
25 be provided and for students for whom transportation costs are

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1 paid.

2 I. If a public school fails to make adequate yearly
3 progress for four consecutive school years, it shall be ranked
4 as a public school subject to corrective action and the school
5 district, in conjunction with the department of education,
6 shall take one or more of the following actions in addition to
7 earlier improvements:

- 8 (1) replace staff as allowed by law;
- 9 (2) implement a new curriculum;
- 10 (3) decrease management authority of the
11 public school;
- 12 (4) appoint an outside expert to advise the
13 public school;
- 14 (5) extend the school day or year; or
- 15 (6) change the public school's internal
16 organizational structure.

17 J. If a public school fails to make adequate yearly
18 progress for five consecutive school years, the school
19 district, in conjunction with the department of education,
20 shall take one or more of the following actions in addition to
21 other improvements:

- 22 (1) reopen the public school as a charter
23 school;
- 24 (2) replace all or most of the staff as
25 allowed by law;

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1 (3) turn over the management of the public
2 school to the department of education; or

3 (4) make other governance changes.

4 K. A school district that fails to make adequate
5 yearly progress for two consecutive school years may be subject
6 to the same requirements as a public school that needs
7 improvement or the same requirements as a public school subject
8 to corrective action, as determined by the state board. A
9 school district that fails to make adequate yearly progress for
10 four consecutive school years shall be subject to corrective
11 action.

12 L. The state or a school district shall not enter
13 into management contracts with private entities for the
14 management of a public school or a school district subject to
15 corrective action."

16 Section 9. A new section of the Public School Code,
17 Section 22-2A-8 NMSA 1978, is enacted to read:

18 "22-2A-8. [NEW MATERIAL] ADEQUATE YEARLY PROGRESS--
19 SUPPLEMENTAL INCENTIVE FUNDING--STATE PROGRAM FOR OTHER
20 ACHIEVEMENT. --

21 A. The state board shall institute an "adequate
22 yearly progress program" that measures public schools'
23 improvements in adequate yearly progress. The public schools
24 that show the greatest improvement in adequate yearly progress
25 shall be eligible for supplemental funding from the incentives

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1 for school improvement fund, including allowable federal funds.

2 B. The state board may institute a "state improving
3 schools program" that measures public school improvement by
4 adequate yearly progress and other indicators, including school
5 safety; dropout rate; parent and community involvement; and, if
6 not used to determine adequate yearly progress, graduation and
7 attendance rates. Those indicators may be weighed against
8 socioeconomic variables such as the percentage of student
9 mobility rates, the percentage of limited English proficient
10 students using criteria established by the federal office of
11 civil rights and the percentage of students eligible for free
12 or reduced-fee lunches and other factors determined by the
13 state board. Public schools that show the greatest improvement
14 through the use of additional indicators may be eligible for
15 supplemental funding from the incentives for school improvement
16 fund. Funding for the state improving schools program shall
17 include federal funds only if allowed by federal law or rule. "

18 Section 10. A new section of the Public School Code,
19 Section 22-2A-9 NMSA 1978, is enacted to read:

20 "22-2A-9. [NEW MATERIAL] INCENTIVES FOR SCHOOL
21 IMPROVEMENT FUND--CREATED--DISTRIBUTIONS.--

22 A. The "incentives for school improvement fund" is
23 created in the state treasury. The fund includes
24 appropriations, federal allocations for the purposes of the
25 fund, income from investment of the fund, gifts, grants and

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1 donations. Balances in the fund shall not revert to any other
2 fund at the end of any fiscal year. The fund shall be
3 administered by the department of education and money in the
4 fund is appropriated to the department of education to provide
5 supplemental incentive funding for the adequate yearly progress
6 program and the state improving schools program. No more than
7 three percent of the fund may be retained by the department of
8 education for administrative purposes. Money in the fund shall
9 be expended on warrants of the secretary of finance and
10 administration pursuant to vouchers signed by the state
11 superintendent or his authorized representative.

12 B. The state board shall adopt a formula for
13 distributing incentive funding from the fund. Distributions
14 for the adequate yearly progress program shall account for at
15 least sixty percent of the fund, including federal funds if
16 those funds are restricted to adequate yearly progress
17 improvements. Up to forty percent of the fund, not including
18 restricted federal funds, may be used for the state improving
19 schools program. The total number of public schools that
20 receive supplemental funding shall not constitute more than
21 fifteen percent of the student membership in the state.
22 Distributions shall be made proportionately to public schools
23 that qualify. "

24 Section 11. A new section of the Public School Code,
25 Section 22-2A-10 NMSA 1978, is enacted to read:

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1 "22-2A-10. [NEW MATERIAL] SCHOOLS IN NEED OF IMPROVEMENT
2 FUND--CREATED.--

3 A. The "schools in need of improvement fund" is
4 created in the state treasury. The fund includes
5 appropriations, federal allocations for the purposes of the
6 fund, income from investment of the fund, gifts, grants and
7 donations. Balances in the fund shall not revert to any other
8 fund at the end of any fiscal year. The fund shall be
9 administered by the department of education and money in the
10 fund is appropriated to the department of education to provide
11 assistance to public schools in need of improvement and public
12 schools subject to corrective action. No more than three
13 percent of the fund may be retained by the department of
14 education for administrative purposes. Money in the fund shall
15 be expended on warrants of the secretary of finance and
16 administration pursuant to vouchers signed by the state
17 superintendent or his authorized representative.

18 B. Distributions from the fund shall be by
19 application approved by the department of education based on a
20 public school's approved improvement plan as provided in
21 Section 22-2A-7 NMSA 1978."

22 Section 12. A new section of the Public School Code,
23 Section 22-2A-11 NMSA 1978, is enacted to read:

24 "22-2A-11. [NEW MATERIAL] ASSESSMENT AND ACCOUNTABILITY
25 SYSTEM REPORTING--PARENT SURVEY--DATA SYSTEM--FISCAL

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1 INFORMATION. --

2 A. The state board shall adopt the format for
3 reporting individual student assessments to parents or
4 guardians. The student assessments shall report each student's
5 progress and academic needs as measured against state
6 standards.

7 B. The state board shall adopt the format for
8 reporting annual yearly progress of public schools, school
9 districts and the department of education. If the state board
10 has adopted a state improving schools program, the annual
11 accountability report shall include the results of that program
12 for each public school. The annual accountability report
13 format shall be clear, concise and understandable to parents
14 and the general public. All annual accountability reports
15 shall ensure that the privacy of individual students is
16 protected.

17 C. Local school boards may establish additional
18 indicators through which to measure the school district's
19 performance in areas other than adequate yearly progress.

20 D. The school district's annual accountability
21 report shall also include the results of a survey of parents'
22 or guardians' views of the quality of their children's school.
23 The survey shall be conducted each year in time to include the
24 results in the annual accountability report. The survey shall
25 compile the results of a written questionnaire that shall be

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1 sent home with the students to be given to their parents or
2 guardians. The survey may be completed anonymously. The
3 survey shall be no more than one page, shall be clearly and
4 concisely written and shall include not more than twenty
5 questions that shall be answered with options of a simple
6 sliding scale ranging from "strongly agree" to "strongly
7 disagree" and shall include the optional response "don't know".
8 The survey shall also include a request for optional written
9 comments, which may be written on the back of the questionnaire
10 form. The questionnaire shall include questions in the
11 following areas:

- 12 (1) parent-teacher-school relationship and
13 communication;
- 14 (2) quality of educational and extracurricular
15 programs;
- 16 (3) instructional practices and techniques;
- 17 (4) resources;
- 18 (5) school employees, including the school
19 principal; and
- 20 (6) parents' views of teaching staff
21 expectations for the students.

22 E. The state board shall develop no more than ten
23 of the survey questions, which shall be reviewed by the
24 legislative education study committee prior to implementation.
25 No more than five survey questions shall be developed by the

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1 local school board, and no more than five survey questions
2 shall be developed by the staffs of each public school;
3 provided that at least one-half of those questions shall be
4 developed by teachers rather than school administrators, in
5 order to gather information that is specific to the particular
6 community surveyed. The questionnaires shall indicate the
7 public school site and shall be tabulated by the department of
8 education within thirty days of receipt and shall be returned
9 to the respective schools to be disseminated to all parents or
10 guardians.

11 F. The school district's annual accountability
12 report shall be adopted by the local school board, may be
13 published no later than November 15 of each year and may be
14 published at least once each school year in a newspaper of
15 general circulation in the county where the school district is
16 located. In publication, the report shall be titled "The
17 School District Report Card" and disseminated in accordance
18 with guidelines established by the state board to ensure
19 effective communication with parents or guardians, students,
20 educators, local policymakers and business and community
21 organizations.

22 G. The annual accountability report shall include
23 the names of those local school board members who failed to
24 attend annual mandatory training.

25 H. The annual accountability report shall include

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1 data on expenditures for central office administration and
2 expenditures for the public schools of the school district.

3 I. The department of education shall create an
4 accountability data system through which data from each public
5 school and each school district may be compiled and reviewed.
6 The department of education shall provide the resources to
7 train school district personnel in the use of the
8 accountability data system.

9 J. The department of education shall verify data
10 submitted by the school districts.

11 K. At the end of fiscal year 2005, after the budget
12 approval cycle, the department of education shall produce a
13 report to the legislature that shows for all school districts
14 using performance-based program budgeting the relationship
15 between that portion of a school district's program cost
16 generated by each public school in the school district and the
17 budgeted expenditures for each public school in the school
18 district as reported in the district's performance-based
19 program budget. At the end of fiscal year 2006 and subsequent
20 fiscal years, after the budget approval cycle, the department
21 of education shall report on this relationship in all public
22 schools in all school districts in the state.

23 L. When all public schools are participating in
24 performance-based budgeting, the department of education shall
25 recommend annually to the legislature for inclusion in the

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1 general appropriation act the maximum percentage of
2 appropriations that may be expended in each school district for
3 central office administration.

4 M The department of education shall disseminate
5 its statewide accountability report to school districts; the
6 governor, legislators and other policymakers; and business and
7 economic development organizations. "

8 Section 13. A new section of the Public School Code is
9 enacted to read:

10 "[NEW MATERIAL] PARENTAL NOTIFICATION. --

11 A. Within sixty calendar days from the beginning of
12 each school year, every school district shall issue a notice to
13 parents or guardians that they may obtain information regarding
14 the professional qualifications of their children's teachers,
15 school principals and other certified school personnel. At a
16 minimum, the information shall include:

17 (1) whether the teacher has met state
18 qualifications for licensure for the grade level and subjects
19 being taught by the teacher;

20 (2) whether the teacher is teaching under a
21 teaching or assignment waiver;

22 (3) the teacher's degree major and any other
23 license or graduate degree held by the teacher; and

24 (4) the qualifications of other certified
25 school personnel if the student is served by educational

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1 assistants or other personnel who provide counseling or special
2 instructional services.

3 B. Beginning with the 2003-2004 school year, a
4 local superintendent shall give written notice to the parents
5 or guardians of those students who are being taught for longer
6 than thirty days by a substitute teacher or by a person who is
7 not qualified to teach the grade or subject.

8 C. The local superintendent shall:

9 (1) ensure that the notice required by this
10 section is provided not later than the thirtieth day following
11 the assignment of that person to the classroom;

12 (2) ensure that the notice required by this
13 section is provided in a bilingual form to a parent or guardian
14 whose primary language is not English;

15 (3) retain a copy of the notice required
16 pursuant to this section; and

17 (4) ensure that information relating to
18 teacher licensure is available to the public upon request."

19 Section 14. A new section of the Public School Code is
20 enacted to read:

21 "NEW MATERIAL TEACHERS AND SCHOOL PRINCIPALS--
22 ACCOUNTABILITY-- EVALUATIONS-- PROFESSIONAL DEVELOPMENT-- PEER
23 INTERVENTION-- MENTORING. --

24 A. The state board shall adopt criteria and minimum
25 statewide objective performance standards for the annual

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1 performance evaluation of certified school personnel. The
2 local superintendent shall adopt policies, guidelines and
3 procedures for the objective performance evaluation process.
4 Evaluation by other school employees shall be one component of
5 the evaluation tool for school principals.

6 B. As part of the objective performance evaluation
7 of teachers, the school principal shall observe each teacher's
8 classroom practice to determine the teacher's ability to
9 demonstrate state-adopted competencies.

10 C. At the beginning of each school year, teachers
11 and school principals shall devise professional development
12 plans for the coming year, and performance evaluations shall be
13 based in part on how well the professional development plan was
14 carried out.

15 D. If a teacher's performance evaluation indicates
16 less than satisfactory performance and competency, the school
17 principal may require the teacher to undergo peer intervention,
18 including mentoring, for a period the school principal deems
19 necessary. If the teacher is unable to demonstrate
20 satisfactory performance and competency by the end of the
21 period, the peer interveners may recommend termination of the
22 teacher.

23 E. At least every two years, school principals
24 shall attend a training program approved by the department of
25 education to improve their evaluation, administrative and

1 instructional leadership skills. "

2 Section 15. APPROPRIATION. --Ten million dollars
3 (\$10,000,000) is appropriated from the general fund to the
4 state department of public education for expenditure in fiscal
5 year 2004 to provide funding for additional certified school
6 personnel in public schools that do not make adequate yearly
7 progress. Any unexpended or unencumbered balance remaining at
8 the end of fiscal year 2004 shall revert to the general fund.

9 Section 16. REPEAL. --Sections 22-1-6, 22-2-8.5 and
10 22-13A-1 through 22-13A-6 NMSA 1978 (being Laws 1989, Chapter
11 308, Section 1, Laws 1986, Chapter 33, Section 6 and Laws 1989,
12 Chapter 137, Sections 1 through 6, as amended) are repealed.

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